

REMARKS

In this Amendment, Applicant has canceled claims 1, 2, 4-8 and 10-14, without prejudice or disclaimer of their subject matter, and added new claims 15-19 to protect additional aspects related to the present invention. Claims 15-19 remain pending and under current examination.

Regarding the Claim Amendments:

The amendments to the claims cancel all of the previously pending claims in order to present a new set of claims of similar scope to the canceled claims. New claims 15-19 are based in part on the previously pending claims. New claim 15 finds support in, for example, now-canceled claim 1, new claim 16 finds support in, for example, now-canceled claim 2, new claim 17 finds support in, for example, now-canceled claim 4, new claim 18 finds support in, for example, now-canceled claim 6, and new claim 19 finds support in, for example, now-canceled claim 7. Additional support for the new claims may also be found in the specification at, for example, pages 4-13 and Figs. 2-5.

Regarding the Final Office Action:

In the Final Office Action mailed on April 2, 2008, the Examiner rejected claims 1, 4-7, and 10-14 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. US 2002/0002035 A1 issued to Sim et al. (hereinafter, "*Sim*") in view of U.S. Patent No. 6,775,305 B1 to Delvaux (hereinafter, "*Delvaux*"). The Examiner also rejected claims 2 and 8 under 35 U.S.C. § 103(a) as being unpatentable over *Sim* in

view of *Delvaux*, and further in view of "Official Notice." Applicant traverses the rejections for the following reasons.¹

Rejection of Claims 1, 4-7, and 10-14 under 35 U.S.C. § 103(a):

Applicant requests reconsideration and withdrawal of this rejection. While the rejection has been rendered moot by the cancellation of claims 1, 4-7, and 10-14 without prejudice or disclaimer of their subject matter, Applicant responds with respect to new claims 15-19. Applicant's new claims 15-19 are patentable under 35 U.S.C. § 103(a) over *Sim* in view of *Delvaux*.

The Examiner has not properly resolved the *Graham* factual inquiries, the proper resolution of which is the requirement for establishing a framework for an objective obviousness analysis. See M.P.E.P. § 2141(11), citing to *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), as reiterated by the U.S. Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. __, 82 USPQ2d 1385 (2007).

In particular, the Examiner has not properly determined the scope and content of the prior art, at least because he incorrectly interpreted the contents of *Sim* and *Delvaux*. Specifically, *these references* do not teach or suggest what the Examiner attributes to them. In addition, the Examiner has not properly ascertained the differences between the claimed invention and the prior art, at least because he has not interpreted the prior art and considered *both* the invention *and* the prior art *as a whole*. See M.P.E.P. § 2141(II)(B).

¹ The Office Action contains statements characterizing the related art and the claims. Regardless of whether any such statements are specifically identified herein, Applicant declines to automatically subscribe to any statements in the Office Action.

Sim, taken alone or in combination with *Delvaux*, does not teach or suggest each and every element of independent claims 15 and 19, in particular:

when the first communication mode is selected, establishing one channel between the wireless communication device and the external device ... and executing the one-way communication to transmit the content data ... from the wireless communication device to the external device via the one channel, and ... when the second communication mode is selected, establishing two independent channels between the wireless communication device and the external device, the two independent channels including a first channel for transmitting content data from the wireless communication device to the external device and a second channel for transmitting content data from the external device to the wireless communication device (claim 15, emphases added);

causing the computer to select one of a first communication mode and a second communication mode ... [the first communication mode having] one channel for transmitting content data from the wireless communication device and the external device ... to transmit the content data ... from the wireless communication device to the external device via the one channel, and [the second communication mode] establish[ing] two independent channels between the wireless communication device and the external device, the two independent channels including a first channel for transmitting content data from the wireless communication device to the external device and a second channel for transmitting content data from the external device to the wireless communication device (claim 19, emphases added).

That is, the claimed number of “channels” to be established varies depending on whether “the first communication mode is selected” or “the second communication mode is selected.” Thus, the above-quoted claim elements of claims 15 and 19 are not disclosed in either *Sim* or *Delvaux*.

As the Examiner recognized, *Sim* does not “explicitly teach a method of establishing two independent channels for transmitting content data communication between the communication device and the external device.” Final Office Action, p. 3. Because *Sim* does not teach a method of establishing two independent channels, *Sim* cannot teach a process for “establishing one channel” when “the first communication

mode is selected," and a process for "establishing two independent channels" when "the second communication mode is selected."

Likewise, *Delvaux* fails to teach or suggest at least the above-quoted elements of claims 15 and 19, and thus fails to cure the deficiencies of *Sim*. Instead, *Delvaux* discloses a "multi-channel communication link 140 applies a sequence number to each individual data packet (e.g., an ATM cell) ... As long as the sequence number is inserted at a place where the packet flow has not been multiplexed (split), the sequence number may be used on the receiving end of the multi-channel communication link 140 to ensure correct resequencing of a data stream." *Delvaux*, Col. 16, lines 37-46. In *Delvaux*, "first FIFO buffer 142a may be configured to work together with the first line mux/demux 144a to transfer each available TPDU to an available communication line transmitter 143. ... [T]he stream of TDPU's may be distributed across the various available physical communication lines 146 with TDPU's being transferred at a greater frequency by the first line mux/demux 144a to physical communication lines 146 capable of supporting a higher bit transfer rate." *Id.* at Col. 16, line 61 to Col. 17, line 8.

Further, *Delvaux* discloses "a first TPDU may be transferred by ... the first FIFO 142a ... to the line 0 transmitter 143₀. ... [T]he line 0 transmitter 143₀ may encode and modulate the TPDU for transmission across line 0 146₀. ... Simultaneously, a second TPDU may be transferred by the first FIFO 142a ... to the line 1 transmitter 143₁ where it may also be encoded and modulated for transmission across line 146₁ for receipt by the line 1 receiver 145₁." *Id.* at Col. 17, lines 9 to 21.

Thus, *Delvaux* discloses sending packets of data on multiple independent channels by an ATM switch, and does not disclose a process for "when the first

communication mode is selected, establishing one channel," or a process for "when the second communication mode is selected, establishing two independent channels."

Claim 15 (similar recitation in claim 19). Thus, the Examiner has neither properly determined the scope and content of the prior art nor properly ascertained the differences between the prior art and the claimed invention.

Furthermore, the electronic apparatus recited in new claim 15 discloses a process for "setting a first communication condition for one-way communication in the apparatus and the external device," with "the first communication condition indicating that a first compression-encoding scheme is used in the one-way communication, compression-encoding content data by a first compression-encoding scheme." Claim 15. Additionally, new claim 15 discloses a process for "setting a second communication condition for two-way communication in the apparatus and the external device," with "the second communication condition indicating that a second compression-encoding scheme is used in the two-way communication, compression-encoding content data by the second compression-encoding scheme." Claim 15. These features are not disclosed in *Sim* or *Delvaux*.

For example, while *Sim* discloses that decoders of different types are used on the slave side, it does not disclose that the type of encoder to be used on the master side is changed between "a first compression-encoding scheme" and "a second compression-encoding scheme" (as recited in claim 15). See *Sim*, Fig. 2, [0016] to [0021], [0035] to [0038]. *Sim* therefore does not teach "the second communication condition indicating that a second compression-encoding scheme is used in the two-

way communication, compression-encoding content data by the second compression-encoding scheme.” Claim 15.

Delvaux does not cure these additional deficiencies of *Sim*. *Delvaux* is addressed to transporting physical data, and not content data. *Delvaux* does not teach “compression encoding content data,” as recited in claim 15. See *Delvaux*, col. 17, lines 11 to 21. Therefore, neither *Sim* nor *Delvaux* teach “the second communication condition indicating that a second compression-encoding scheme is used in the two-way communication, compression-encoding content data by the second compression-encoding scheme.” Claim 15.

Further, *Delvaux* is not analogous art to the claimed invention. “To rely on a reference under 35 U.S.C. [§]103, it must be analogous prior art.” M.P.E.P. §2141.01(a)(I). While “a reference in a field different from that of Applicant’s endeavor may be reasonably pertinent,” it would have to be “one which, because of the matter with which it deals, logically would have commended itself to an inventor’s attention in considering his or her invention as a whole.” *Id.* The subject matter with which *Delvaux* deals, however, would not have logically commended itself to an inventor’s attention.

Contrary to the claimed invention, *Delvaux* relates to a technique of operating an ATM switch and not to the control of “a wireless communication device that executes wireless communication with an external device.” Claim 15. In particular, *Delvaux* functions at the link and physical layers, transporting packet data regardless of source. See, *Delvaux*, col. 9, lines 45 to 53, col. 13, lines 55 to 64. In contrast, Applicant’s apparatus of new claim 15 is configured to be able to “transmit the content data … from the wireless communication device to the external device via the one channel” and

“transmit the content data from the wireless communication device to the external device via the first channel and receive content data from the external device via the second channel.” Claim 15. Neither the structure, nor the function, of an ATM switch operating at the link and physical layers of the OCI model, as taught by *Delvaux*, would have logically commended itself to an inventor’s attention in attempting to develop the claimed “wireless communication device” able to “transmit the content data to … the external device.” Claim 15. See M.P.E.P. §§ 2141.01(a)(I) and (a)(II). Thus, *Delvaux* is not reasonably pertinent to Applicant’s endeavor, and *Delvaux* is not analogous art. Therefore, the Examiner cannot rely on *Delvaux* in a § 103(a) rejection of Applicant’s claims.

New independent claim 15 is not obvious over *Sim* and *Delvaux*, whether taken alone or in combination, and should be allowable for the reasons discussed above. New independent claim 19, while of different scope, recites elements similar to claim 15, and should be allowable for the reasons discussed above regarding claim 15. New dependent claims 16-18 should be allowable at least by virtue of their dependence from allowable base claim 15. Accordingly, Applicant requests the Examiner’s reconsideration and withdrawal of this rejection.

Rejection of Claims 2 and 8 under 35 U.S.C. § 103(a):

Applicant requests reconsideration and withdrawal of this rejection of claims 2 and 8 under U.S.C. § 103(a) as being unpatentable over *Sim* in view of *Delvaux*, and further in view of “Official Notice.” While the rejection has been rendered moot by the cancellation of claims 2 and 8 without prejudice or disclaimer of their subject matter, Applicant responds with respect to new independent claim 15, and defendant claim 16.

Notwithstanding the deficiencies of *Sim* and *Delvaux* already discussed above with respect to claim 15, Official Notice was taken by the Examiner “that a method of notifying a user of an incoming call on a display by prompting a notify message is well known in that art.” Final Office Action at 7. Without conceding that the Examiner’s Official Notice is correct or proper, the combination of *Sim*, *Delvaux*, and Official Notice, taken alone or in combination, does not teach or suggest each and every element of Applicant’s claimed invention.

The Examiner’s Official Notice relates to notification of the user of an incoming call, and does not disclose the Applicant’s claimed process for “when the first communication mode is selected, establishing one channel,” or the claimed process for “when the second communication mode is selected, establishing two independent channels.” Claim 15. Additionally, the Examiner’s Official Notice does not disclose Applicant’s claimed “the second communication condition indicating that a second compression-encoding scheme is used in the two-way communication, compression-encoding content data by the second compression-encoding scheme.” Claim 15. The Examiner’s Official Notice thus does not cure the deficiencies of *Sim* or *Delvaux* with respect to claim 15.

For the reasons presented above regarding the Examiner’s Official Notice, and by virtue of its dependance from independent claim 15, new claim 16 is not obvious over *Sim*, *Delvaux*, and Official Notice, taken alone or in combination, and therefore should be allowable. Accordingly, Applicant requests the Examiner’s reconsideration and withdrawal of this rejection.

Conclusion:

Applicant requests reconsideration of the application and withdrawal of the rejections. Pending claims 15-19 are in condition for allowance, and Applicant requests a favorable action.

If there are any remaining issues or misunderstandings, Applicant requests the Examiner telephone the undersigned representative to discuss them.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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